

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                               |   |                      |
|-------------------------------|---|----------------------|
| MARLIN E. JONES,              | ) |                      |
|                               | ) |                      |
| Plaintiff,                    | ) | 4:05cv3071           |
|                               | ) |                      |
| vs.                           | ) | MEMORANDUM AND ORDER |
|                               | ) |                      |
| CITY OF NORTH PLATTE, et al., | ) |                      |
|                               | ) |                      |
| Defendant.                    | ) |                      |

This matter is before the court on filing no. 27, the Motion for Summary Judgment filed by the plaintiff, Marlin E. Jones. The plaintiff's complaint, as amended, asserts two claims for damages pursuant to 42 U.S.C. § 1983. In the first claim, entitled "Obstruction of Justice," the plaintiff seeks relief from the City of North Platte, Nebraska, as well as the North Platte Chief of Police, Martin Gutschenritter; and a City police officer, Rick Ryan. In the second claim, entitled "Discrimination," the plaintiff seeks relief from Debra Morgan, Executive Director of the North Platte Housing Authority, and from the City of North Platte.

The plaintiff's Motion for Summary Judgment relates only to Debra Morgan. The plaintiff states that Ms. Morgan clearly acted with evil intent or reckless and callous indifference, and the plaintiff also seeks punitive damages. However, the Motion must be denied. First, claims predicated on a defendant's state of mind such as "evil intent" raise issues which are inherently factual and which rarely can be adjudicated in a summary judgment motion. Second, no evidence has been offered in support of the motion. Therefore, filing no. 27, the plaintiff's Motion for Summary Judgment, is denied.

SO ORDERED.

DATED this 13<sup>th</sup> day of May, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge